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OFFICE OF PETITIONS

In re Application of :
Xavier Nassif et al :
Application No. 09/928,457 : DECISION DISMISSING PETITION
Filed: August 14, 2001 : UNDER 37 CFR 3.81(b)
Attorney Docket No. 1721-34 :

This is a decision on the petition, filed December 29, 2004, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is dismissed.

Petitioner states that the assignee's name appearing on the Part B - Fee(s) Transmittal form is incorrect and that the correct assignee's name is "INSTITUT NATIONAL DE LA SANTE ET DE LA RECHERCHE MEDICALE (I.N.S.E.R.M.)." Accordingly, petitioner requests that the patent issue to this assignee.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). As petitioner has failed to comply with the provisions of 37 CFR 3.81(a), the request cannot be granted.

A review of Office database assignment records reflects that an assignment to the above-noted assignee has been recorded.

¹ See Official Gazette of June 22, 2004

Therefore, upon submission of the required certificate of correction and fee of \$100, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "INSTITUT NATIONAL DE LA SANTE ET DE LA RECHERCHE MEDICALE (INSERM) [without the periods]," was the assignee of record at the time of issuance of the instant application into a patent. Note also 35 U.S.C. § 152.


In view of the above and after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee of \$100) which sets forth "INSTITUT NATIONAL DE LA SANTE ET DE LA RECHERCHE MEDICALE (INSERM), as the assignee. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this decision. A copy of this decision must accompany the request for a Certificate of Correction.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in the request, as this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction upon submission of a certificate of correction and fee therefor.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a renewed request under 37 CFR 3.81(b)).

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

After the submission by petitioner of the request for a certificate of correction to correct the assignee data on the front page of the Letters Patent, any questions pertinent thereto should be directed to the Certificates of Correction Branch at (703) 305-8309.


Frances Hicks
Petitions Examiner
Office of Petitions